

18 MAR 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE



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In re Application of :
Locarnini et al. :
Application No. 09/831,686 : DECISION ON
PCT No.: PCT/AU99/00993 :
Int. Filing Date: 11 November 1998 : PETITION UNDER
Priority Date: 10 November 1999 :
Atty. Docket No.: 37921151956 : 37 CFR 1.137(b)
For: Biological Compositions,
Components Thereof And
And Uses Therefor :
:

This is in response to the computer readable form (CRF) of the "sequence listing" filed on 18 February 2004 and the letter filed on 10 February 2005.

DISCUSSION

In a decision mailed on 30 September 2004, a petition under 37 CFR 1.137(b) filed on 01 March 2004 was dismissed without prejudice because the "required reply is an initial or substitute computer readable form (CRF) of the sequence listing. Since no such CRF accompanied the petition or is otherwise present in the application file, requirement (1) has not been satisfied."

Subsequent to the mailing of that decision, the CRF was located, processed, found to be technically acceptable, and entered into the database. On 10 February 2005, counsel filed a copy of a return postcard receipt which itemizes a "sequence listing diskette" and is stamped as "Rec'd PCT/PTO 18 FEB 2004." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the CRF is regarded as filed on 18 February 2004. Since this CRF satisfies the requirement to file the "required reply," all of the requirements for relief under 37 CFR 1.137(b) have now been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) remains **31 July 2001**.

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